



House of Representatives

General Assembly

File No. 243

February Session, 2018

Substitute House Bill No. 5320

House of Representatives, April 5, 2018

The Committee on General Law reported through REP. D'AGOSTINO of the 91st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING OCCUPATIONAL LICENSING AND BUILDING TRADES AND CONTRACTOR DEBARMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 20-330 of the 2018 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2018*):

4 As used in this chapter:

5 (1) "Contractor" means any person regularly offering to the general
6 public services of such person or such person's employees in the field
7 of electrical work, plumbing and piping work, solar work, heating,
8 piping, cooling and sheet metal work, fire protection sprinkler systems
9 work, elevator installation, repair and maintenance work, irrigation
10 work, automotive glass work or flat glass work, as defined in this
11 section;

12 (2) "Electrical work" means the installation, erection, maintenance,

13 inspection, testing, alteration or repair of any wire, cable, conduit,
14 busway, raceway, support, insulator, conductor, appliance, apparatus,
15 fixture or equipment that generates, transforms, transmits or uses
16 electrical energy for light, heat, power or other purposes, but does not
17 include low voltage wiring, not exceeding twenty-four volts, used
18 within a lawn sprinkler system;

19 (3) "Plumbing and piping work" means the installation, repair,
20 replacement, alteration, [or] maintenance, inspection or testing of gas,
21 water and associated fixtures, tubing and piping mains and branch
22 lines up to and including the closest valve to a machine or equipment
23 used in the manufacturing process, laboratory equipment, sanitary
24 equipment, other than subsurface sewage disposal systems, fire
25 prevention apparatus, all water systems for human usage, sewage
26 treatment facilities and all associated fittings within a building and
27 includes lateral storm and sanitary lines from buildings to the mains,
28 process piping, swimming pools and pumping equipment, and
29 includes making connections to back flow prevention devices, and
30 includes low voltage wiring, not exceeding twenty-four volts, used
31 within a lawn sprinkler system, but does not include (A) solar thermal
32 work performed pursuant to a certificate held as provided in section
33 20-334g, except for the repair of those portions of a solar hot water
34 heating system that include the basic domestic hot water tank and the
35 tie-in to the potable water system, (B) the installation, repair,
36 replacement, alteration, [or] maintenance, inspection or testing of fire
37 prevention apparatus within a structure, except for standpipes that are
38 not connected to sprinkler systems, (C) medical gas and vacuum
39 systems work, and (D) millwright work. For the purposes of this
40 subdivision, "process piping" means piping or tubing that conveys
41 liquid or gas that is used directly in the production of a chemical or a
42 product for human consumption;

43 (4) "Solar thermal work" means the installation, erection, repair,
44 replacement, alteration, [or] maintenance, inspection or testing of
45 active, passive and hybrid solar systems that directly convert ambient
46 energy into heat or convey, store or distribute such ambient energy;

47 (5) "Heating, piping and cooling work" means (A) the installation,
48 repair, replacement, maintenance, inspection, testing or alteration of
49 any apparatus for piping, appliances, devices or accessories for heating
50 systems, including sheet metal work, (B) the installation, repair,
51 replacement, maintenance, inspection, testing or alteration of air
52 conditioning and refrigeration systems, boilers, including apparatus
53 and piping for the generation or conveyance of steam and associated
54 pumping equipment and process piping and the installation of tubing
55 and piping mains and branch lines up to and including the closest
56 valve to a machine or equipment used in the manufacturing process
57 and onsite testing and balancing of hydronic, steam and combustion
58 air, but excluding millwright work, and (C) on-site operation, by
59 manipulating, adjusting or controlling, with sufficient technical
60 knowledge, as determined by the commissioner, (i) heating systems
61 with a steam or water boiler maximum operating pressure of fifteen
62 pounds per square inch gauge or greater, or (ii) air conditioning or
63 refrigeration systems with an aggregate of more than fifty horsepower
64 or kilowatt equivalency of fifty horsepower or of two hundred pounds
65 of refrigerant. Heating, piping and cooling work does not include solar
66 thermal work performed pursuant to a certificate held as provided in
67 section 20-334g, or medical gas and vacuum systems work or the
68 passive monitoring of heating, air conditioning or refrigeration
69 systems. For the purposes of this subdivision, "process piping" means
70 piping or tubing that conveys liquid or gas that is used directly in the
71 production of a chemical or a product for human consumption;

72 (6) "Apprentice" means any person registered with the Labor
73 Department for the purpose of learning a skilled trade;

74 (7) "Elevator installation, repair and maintenance work" means the
75 installation, erection, maintenance, inspection, testing and repair of all
76 types of elevators, dumb waiters, escalators, and moving walks and all
77 mechanical equipment, fittings, associated piping and wiring from a
78 source of supply brought to the equipment room by an unlimited
79 electrical contractor for all types of machines used to hoist or convey
80 persons or materials, but does not include temporary hoisting

81 machines used for hoisting materials in connection with any
82 construction job or project;

83 (8) "Elevator maintenance" means the lubrication, inspection, testing
84 and replacement of controls, hoistway and car parts;

85 (9) "Fire protection sprinkler systems work" means the layout, on-
86 site fabrication, installation, alteration, maintenance, inspection, testing
87 or repair of any automatic or manual sprinkler system designed for the
88 protection of the interior or exterior of a building or structure from fire,
89 or any piping or tubing and appurtenances and equipment pertaining
90 to such system including overhead and underground water mains, fire
91 hydrants and hydrant mains, standpipes and hose connections to
92 sprinkler systems, sprinkler tank heaters excluding electrical wiring,
93 air lines and thermal systems used in connection with sprinkler and
94 alarm systems connected thereto, foam extinguishing systems or
95 special hazard systems including water spray, foam, carbon dioxide or
96 dry chemical systems, halon and other liquid or gas fire suppression
97 systems, but does not include (A) any engineering design work
98 connected with the layout of fire protection sprinkler systems, or (B)
99 any work performed by employees of or contractors hired by a public
100 water system, as defined in subsection (a) of section 25-33d;

101 (10) "State Fire Marshal" means the State Fire Marshal appointed by
102 the Commissioner of Administrative Services;

103 (11) "Journeyman sprinkler fitter" means a specialized pipe fitter
104 craftsman, experienced and skilled in the installation, alteration,
105 maintenance and repair of fire protection sprinkler systems;

106 (12) "Irrigation work" means making the connections to and the
107 inspection and testing of back flow prevention devices, and low
108 voltage wiring, not exceeding twenty-four volts, used within a lawn
109 sprinkler system;

110 (13) "Sheet metal work" means the onsite layout, installation,
111 erection, replacement, repair or alteration, including, but not limited

112 to, onsite testing and balancing of related life safety components,
113 environmental air, heating, ventilating and air conditioning systems by
114 manipulating, adjusting or controlling such systems for optimum
115 balance performance of any duct work system, ferrous, nonferrous or
116 other material for ductwork systems, components, devices, air louvers
117 or accessories, in accordance with the State Building Code;

118 (14) "Journeyman sheet metal worker" means an experienced
119 craftsman skilled in the installation, erection, replacement, repair or
120 alteration of duct work systems, both ferrous and nonferrous;

121 (15) "Automotive glass work" means installing, maintaining or
122 repairing fixed glass in motor vehicles;

123 (16) "Flat glass work" means installing, maintaining or repairing
124 glass in residential or commercial structures;

125 (17) "Medical gas and vacuum systems work" means the work and
126 practice, materials, instrumentation and fixtures used in the
127 construction, installation, alteration, extension, removal, repair,
128 maintenance, inspection, testing or renovation of gas and vacuum
129 systems and equipment used solely to transport gases for medical
130 purposes and to remove liquids, air-gases or solids from such systems;

131 (18) "Solar electricity work" means the installation, erection, repair,
132 replacement, alteration, [or] maintenance, inspection and testing of
133 photovoltaic or wind generation equipment used to distribute or store
134 ambient energy for heat, light, power or other purposes to a point
135 immediately inside any structure or adjacent to an end use;

136 (19) "Active solar system" means a system that uses an external
137 source of energy to power a motor-driven fan or pump to force the
138 circulation of a fluid through solar heat collectors and which removes
139 the sun's heat from the collectors and transports such heat to a location
140 where it may be used or stored;

141 (20) "Passive solar system" means a system that is capable of
142 collecting or storing the sun's energy as heat without the use of a

143 motor-driven fan or pump;

144 (21) "Hybrid solar system" means a system that contains
145 components of both an active solar system and a passive solar system;

146 (22) "Gas hearth product work" means the installation, service,
147 inspection, testing or repair of a propane or natural gas fired fireplace,
148 fireplace insert, stove or log set and associated venting and piping that
149 simulates a flame of a solid fuel fire. "Gas hearth product work" does
150 not include (A) fuel piping work, (B) the servicing of fuel piping, or (C)
151 work associated with pressure regulating devices, except for
152 appliances gas valves; [and]

153 (23) "Millwright work" means the installation, repair, replacement,
154 maintenance or alteration of (A) power generation machinery, or (B)
155 industrial machinery, including the related interconnection of piping
156 and tubing used in the manufacturing process, but does not include
157 the performance of any action for which licensure is required under
158 this chapter;

159 (24) "Inspection" means the visual examination of a system or
160 portion of a system, without disassembly of component parts of the
161 system; and

162 (25) "Testing" means to determine the status of a system as intended
163 for its use, with or without the disassembly of component parts of the
164 system, by the use of testing and measurement instruments.

165 Sec. 2. Section 31-53a of the general statutes is repealed and the
166 following is substituted in lieu thereof (*Effective January 1, 2019*):

167 (a) The State Comptroller or the contracting authority acting
168 pursuant to section 31-53 is hereby authorized and directed to pay to
169 mechanics, laborers and workers from any accrued payments withheld
170 under the terms of a contract terminated pursuant to subsection (b) of
171 said section 31-53 any wages found to be due such mechanics, laborers
172 and workers pursuant to said section 31-53. The Labor Commissioner
173 is further authorized and directed to distribute a list to all departments

174 of the state and political subdivisions of the state giving the names of
175 (1) persons or firms whom the Labor Commissioner has found to have
176 (A) disregarded their obligations under said section 31-53 and section
177 31-76c to employees and subcontractors on public works projects, or
178 [to have] (B) been barred from federal government contracts in
179 accordance with the provisions of the Davis-Bacon Act, 49 Stat. 1011
180 (1931), 40 USC 276a-2, or (2) any person or firm identified in subsection
181 (d) of this section.

182 (b) (1) No contract shall be awarded by the state or any of its
183 political subdivisions to the persons or firms appearing on the list
184 distributed by the Labor Commissioner pursuant to subsection (a) of
185 this section or to any firm, corporation, partnership, or association in
186 which such persons or firms have an interest until a period of up to
187 [three] five years, as determined by the Labor Commissioner, has
188 elapsed from the date of publication of the list containing the names of
189 such persons or firms.

190 (2) No general contractor that enters into a contract with the state or
191 any of its agents, or with any political subdivision of the state or any of
192 its agents, for the construction, remodeling, refinishing, refurbishing,
193 rehabilitation, alteration or repair of any public works project subject
194 to the provisions of section 31-53 or for any state highway project that
195 falls under the provisions of section 31-54, shall award any work under
196 such contract to the persons or firms appearing on the list distributed
197 by the Labor Commissioner pursuant to subsection (a) of this section
198 or to any firm, corporation, partnership or association in which such
199 persons or firms have an interest until a period of up to three years, as
200 determined by the Labor Commissioner, has elapsed from the date of
201 publication of the list containing the names of such persons or firms.

202 (3) Prior to performing any work under a contract for the
203 construction, remodeling, refinishing, refurbishing, rehabilitation,
204 alteration or repair of any public works project subject to the
205 provisions of section 31-53 or for any state highway project that falls
206 under the provisions of section 31-54, each person, firm, corporation,

207 partnership or association engaged by a general contractor to perform
208 such work shall submit a sworn affidavit to the general contractor
209 attesting that such person, firm, corporation, partnership or association
210 does not hold an interest of ten per cent or greater in a firm appearing
211 on the list distributed by the Labor Commissioner pursuant to
212 subsection (a) of this section. The receipt and retention by a general
213 contractor of such sworn affidavit shall fulfill the general contractor's
214 obligation under subdivision (2) of this subsection.

215 (4) Any person or firm that appears on the list distributed by the
216 Labor Commissioner pursuant to subsection (a) of this section, for a
217 period of up to [three] five years from the date of publication of such
218 list, shall be liable to the Labor Department for a civil penalty of one
219 thousand dollars for each day or part of a day in which such person,
220 [or] firm performs any work under any contract with the state or any
221 of its agents, or with any political subdivision of the state or any of its
222 agents, for the construction, remodeling, refinishing, refurbishing,
223 rehabilitation, alteration or repair of any public works project subject
224 to the provisions of section 31-53 or any state highway project that falls
225 under the provisions of section 31-54. The Attorney General, upon
226 complaint of the Labor Commissioner, shall institute a civil action to
227 recover such civil penalty. Any amount recovered shall be deposited in
228 the General Fund and credited to a separate nonlapsing appropriation
229 to the Labor Department, for other current expenses, and may be used
230 by the Labor Department to enforce the provisions of this part. As
231 used in this subdivision, "person or firm" includes any firm,
232 corporation, partnership or association in which a person or firm
233 appearing on the list distributed by the Labor Commissioner pursuant
234 to subsection (a) of this section holds an interest of ten per cent or
235 greater.

236 (c) If the accrued payments withheld under the terms of a contract
237 terminated pursuant to subsection (b) of section 31-53 are insufficient
238 to reimburse all the mechanics, laborers and workers with respect to
239 whom there has been a failure to pay the wages required pursuant to
240 said section 31-53, such mechanics, laborers and workers shall have the

241 right of action and of intervention against the contractor and the
242 contractor's sureties conferred by law upon persons furnishing labor or
243 materials, and in such proceedings it shall be no defense that such
244 mechanics, laborers and workers accepted or agreed to accept less than
245 the required wages or that such persons voluntarily made refunds.

246 (d) The Labor Commissioner shall add the following to the list
247 distributed pursuant to subsection (a) of this section:

248 (1) Any person or firm that has been convicted of violating or has
249 been found by a court or administrative agency of competent
250 jurisdiction to have violated, pursuant to a final adjudication within
251 the past three years, any state or federal law: (A) Regulating hours of
252 labor, prevailing wages, minimum wages, overtime pay, equal pay,
253 child labor, worker's compensation or unemployment compensation,
254 (B) prohibiting discrimination in employment, or (C) governing
255 worker classification, which results in back payments or stop work
256 orders issued by the Labor Department, and

257 (2) Any person or firm that has been found by the Labor
258 Commissioner, on the basis of substantial evidence, to have committed
259 any of the offenses identified in subdivision (1) of this subsection
260 within the past three years. For purposes of determining whether the
261 Labor Commissioner has substantial evidence to find that a person or
262 firm has committed any such offense, said commissioner shall consider
263 any previous Labor Department debarment investigations into the
264 person's or firm's labor practices that occurred within the previous
265 seven years.

266 (e) The provisions of this section shall apply to any debarred
267 person's or firm's successors or substantially owned or affiliated
268 entities and shall be for a period of not less than two years or more
269 than five years. No public contract, including a subcontract, shall be
270 awarded to any person or firm appearing on the debarment list until
271 the debarment period has expired.

272 (f) The Labor Commissioner shall notify a person or firm that has

273 been found to have committed any of the offenses listed in subsection
 274 (a) or (d) of this section, in writing, by registered or certified mail, that
 275 the person or firm will be added to the debarment list not later than
 276 thirty days after the person's or firm's receipt of the letter. The notice
 277 shall provide the person or firm with an opportunity to object to the
 278 debarment not later than thirty days after the person or firm received
 279 such notice. Such objection shall be limited to the claim that the offense
 280 identified in the letter has not been substantiated by substantial
 281 evidence or that the finding at issue occurred more than three years
 282 prior to the date of the alleged offense. If a person or firm objects to
 283 debarment, the person or firm shall provide the Labor Commissioner
 284 with written documentation to support the objection and the Labor
 285 Commissioner shall schedule a hearing to determine whether the
 286 person or firm should be debarred.

287 (g) For purposes of determining whether a person or firm is the
 288 lowest responsible and qualified bidder, as defined in section 4b-92, a
 289 person or firm shall not be considered responsible if the person or firm
 290 has been found by the Labor Commissioner or a court or
 291 administrative agency of competent jurisdiction, within three years of
 292 the bid due date, to have committed any of the offenses specified in
 293 subsection (a) or (d) of this section. The provisions of this section shall
 294 not restrict an awarding authority's right to find a person or firm to be
 295 irresponsible for reasons unrelated to the offenses specified in
 296 subsection (a) or (d) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2018</i>	20-330
Sec. 2	<i>January 1, 2019</i>	31-53a

GL *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Consumer Protection, Dept.	GF - Cost	478,161	278,161
State Comptroller - Fringe Benefits ¹	GF - Cost	107,123	113,189
Consumer Protection, Dept.	GF - Revenue Gain	Up to 9,300,000	Up to 9,300,000
Labor Dept.	GF - Cost	16,697	33,397

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill expands the scope of certain fields that require a Department of Consumer Protection (DCP) license and expands the types of offenses that result in a person or firm being placed on the Department of Labor's debarment list and results in various costs to the state and a revenue gain to DCP.

Section 1 expands the licensing requirements for many DCP credentials, resulting in a cost to DCP and the State Comptroller and a revenue gain to the DCP. The result of the bill is that many of the 45,611 people who currently have either a licensee or are a registrant will need to obtain a license or an additional license. If everyone in the population obtained one additional license, it will generate

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 36.33% of payroll in FY 19 and FY 20.

approximately \$9.3 million in revenue for DCP. Due to the magnitude of additional applications, DCP will need to hire four additional people: two license application specialists, one consumer protection inspector, and one staff attorney. This results in an annual cost of \$278,161 to DCP for the four salaries and an annual cost of \$101,056 to the State Comptroller for fringe benefits.

DCP will also have to create a new credential type for those whose scope of work is limited to diagnostic activity in the ten listed professions in the bill. This will require creating ten new exams and each exam is estimated to cost \$20,000 which results in a total one-time cost of \$200,000 to DCP in FY 19.

Section 2 of the bill establishes notice requirements for the debarment process with an opportunity for affected entities to object, with any objection requiring a full hearing and investigation by the Department of Labor (DOL). In order to fulfill the hearing and investigation requirements, DOL will require one part-time Wage Enforcement Agent (\$33,397 for salary and \$12,133 for fringe costs).

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5320*****AN ACT CONCERNING OCCUPATIONAL LICENSING AND BUILDING TRADES AND CONTRACTOR DEBARMENT.*****SUMMARY**

This bill expands the types of offenses that result in a person or firm (“entities”) being placed on the Department of Labor’s (DOL) debarment list, which means they cannot be awarded state or local government contracts while on the list (see BACKGROUND). The bill also (1) establishes notice and hearing requirements for entities that DOL plans to place on the list and (2) extends the debarment law’s provisions to cover debarred entities’ successors.

The bill makes an entity ineligible for consideration as the lowest responsible Department of Administrative Services-prequalified bidder if, within three years of a bid due date, it was found to have committed an offense for which one is placed on the debarment list. But the bill specifies that the authority awarding a contract may find entities “irresponsible” for reasons other than the debarable offenses. Presumably, this means the bill does not otherwise alter existing standards for DAS’s prequalified bidders.

The bill also expands the scope of certain fields in order to define types of work that require a Department of Consumer Protection (DCP) license.

The bill also makes conforming changes.

EFFECTIVE DATE: January 1, 2019, except the scope of work definitions are effective July 1, 2018.

DOL’S DEBARMENT LIST (§ 2)***Debarable Offenses***

The bill expands the types of offenses that result in entities being placed on DOL's debarment list. Under current law, DOL places entities on the list if they violate state or federal prevailing wage laws. Under the bill, an entity must also be debarred if, in the past three years, a court or administrative agency of competent jurisdiction or the DOL commissioner on the basis of substantial evidence determined that the entity violated state or federal:

1. wage and hour, equal pay, child labor, worker's compensation, unemployment compensation, or employment discrimination laws or
2. worker classification laws, resulting in DOL-ordered back pay or stop work orders.

The bill requires the DOL commissioner, in determining whether there is substantial evidence of an offense, to consider DOL debarment investigations into the entity's labor practices occurring within the past seven years.

Debarment Period

The bill increases, from three to five years the maximum period during which the state and municipalities must not award a contract to a listed entity. As under existing law, the DOL commissioner sets the period. By law unchanged by the bill, DOL can set a period of up to three years during which general contractors cannot hire listed subcontractors.

Successors and Related Entities

The bill requires DOL to include on the list successors to debarred entities and entities that are substantially owned by or affiliated with debarred entities. Under the bill, successors and entities substantially owned by or affiliated with listed entities must appear on the list for at least two, but no more than five, years. (Presumably, the DOL commissioner will specify the debarment period.)

Under existing law, unchanged by the bill, if a debarred entity has

at least a 10% ownership interest in another entity, that other entity is treated the same as the debarred entity. It is not clear if this provision regarding an ownership interest could be distinguished from the new provision that addresses entities substantially owned by or affiliated with debarred entities.

Notice Requirements

The bill also establishes notice requirements for the debarment process. Under the bill, the DOL commissioner must notify entities in writing, by registered or certified mail, that they will be added to the debarment list within 30 days of receiving the notice. The notice must provide entities with an opportunity to object to the debarment within 30 days. (It appears that the notice and listing timeframes are not compatible. An entity could object on day 30 and already have been placed on the list.) Under the bill, entities may object only if:

1. the offense identified in the notice has not been substantiated by substantial evidence or
2. the finding at issue occurred more than three years before the date of the alleged offense (it is unclear what this means).

Objections must be documented in writing, following the receipt of which the DOL commissioner must schedule a debarment hearing to determine whether the entity should be debarred.

INSPECTION AND TESTING ACTIVITIES (§ 1)

The bill specifies that for purposes of DCP's tradesperson licensing statutes, work in the following fields includes inspecting and testing the relevant systems:

1. electrical;
2. plumbing and piping work;
3. solar thermal;
4. heating, piping, and cooling;

5. elevator installation, repair, and maintenance;
6. fire protection sprinkler systems;
7. lawn irrigation;
8. medical gas and vacuum systems;
9. solar electricity; and
10. gas hearth products.

Under the bill, “testing” means determining a system’s status given its intended use, with or without disassembling its component parts, using testing and measurement instruments. “Inspection” means visually examining a system or portion of it, without disassembling its component parts. The bill’s definition of (1) “testing” also applies to existing law’s definition of sheet metal work and (2) “inspection” also applies to existing law’s definition of elevator maintenance.

The bill also expands the scope of the:

1. elevator maintenance field (which in statute is distinct from elevator installation, repair, and maintenance) to include the testing of controls, hoistway, and car parts (inspection of such parts is already deemed part of the field), and
2. heating, piping, and cooling field to include onsite testing and balancing of hydronic, steam, and combustion air systems.

BACKGROUND

DOL’s Debarment List

By law, the labor commissioner must maintain a list of contractors and firms that have violated certain state or federal employment laws. State and municipal agencies are prohibited from awarding contracts to listed entities and the general contractors they hire are prohibited from hiring subcontractors that appear on the list.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 15 Nay 2 (03/20/2018)